

REMARKS/ARGUMENTS

This application has been carefully considered in light of the Non-Final Office Action mailed July 20, 2004. In the Office Action, Claims 98, 99, and 115 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite. In this respect, Claim 98 has been further amended to remove the indefiniteness pointed out by the Examiner in the claim language.

More specifically, the Examiner had questioned the phrase, "and spaced in a medio-lateral direction from said central portion" as being indefinite. In this respect, the Claim language has been amended to define more specifically that the arcuately oriented guide structure which extends upwardly only from the anterior portion of the upper surface of the metal base is spaced in a medial direction from the central portion and extends lateral to control relative rotation of the tibial plate and the metal base. As is noted throughout the specification, the upstand or arcuately oriented guide structure is defined as being oriented in a substantially medio-lateral direction in that the structure is positioned as shown in the drawing figures extending laterally from the medial portion.

In view of this amendment to Claim 98, it is believed that the grounds for rejection under 35 U.S.C. 112, second paragraph,

is overcome. Therefore, favorable consideration and allowance of Claim 98 is respectfully solicited. Further, it is believed that all claims which depend from Claim 98 should be allowable for the same reasons as discussed in the remarks portion of the preliminary amendment filed with the Request for Continued Examination.

The Examiner did question whether or not Claim 107 was generic in that the Claim defines a centering element which is not in an anterior portion of the base. However, Claim 7 depends from 98 and defines further structure in the form of a centering element which is separate and distinct from the arcuately oriented guide structure defined by Claim 98. More specifically, such a centering element would be an element such as shown at 29 in Fig 9 of the drawings.

As Claim 107 is dependent from Claim 98 and as Claim 98 is generic to all withdrawn Claims, it is respectfully requested that reconsideration now be given with respect to the non-elected claims and that these claims be considered on the merits. It is requested that reconsideration be given in accordance with the provisions of 37 CFR § 1.143 in order to avoid the necessity of filing a petition under 37 CFR § 1.144, especially in light of the generic nature of claim 98 and because each of the withdrawn claims depends on claim 98 or from claims depending therefrom.

The Examiner has further noted that Claims 103 and 104 are allowed. A minor amendment has been made to the language of Claim 103 without changing the structure of the Claim.

Should the Examiner have any further questions concerning the allowability of the claims, it would be appreciated if the Examiner would contact the undersigned Attorney-of-Record for purposes of scheduling a personal interview in order to further facilitate the prosecution of this application. Such an interview may reduce any remaining issues with respect to the patentability of the claims.

An earnest effort has been made to place this application in condition for allowance which action is requested. Please note the new address of the Attorney-of-Record set out below.

Respectfully submitted,

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By 

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